

**THE MINISTRY OF NATURAL RESOURCES
AND ENVIRONMENT**

**CIRCULAR No. 01/2005/TT-BTNMT OF APRIL
13, 2005 GUIDING THE IMPLEMENTATION
OF A NUMBER OF ARTICLES OF THE
GOVERNMENT'S DECREE No. 181/2004/ND-CP
OF OCTOBER 29, 2004 ON IMPLEMENTATION
OF THE LAND LAW**

This Circular guides the implementation of a number of articles of the Government's Decree No.181/2004/ND-CP of October 29, 2004, on implementation of the Land Law (hereinafter called Decree 181), which, in the course of implementation, are requested by provinces and centrally-run cities to be more specifically guided for application..

**I. ADDITIONAL GUIDANCE ON LAND
ASSIGNMENT, LAND LEASE,
DETERMINATION OF LAND USE PURPOSES,
DETERMINATION OF LAND USE DURATION,
LAND RECOVERY, RECOGNITION OF LAND
USE RIGHTS**

**1. On the dossiers of application for land
assignment, land lease, land use purpose
change for land received before November 16,
2004**

1.1. With regard to the dossiers of application for land assignment; land lease or land use purpose change, which had been submitted before November 16, 2004 (the effective date of Decree 181), the land assignment and land lease shall continue and the land use purpose change shall be permitted in accordance with the provisions of land legislation before July 1, 2004 (the effective

date of the Land Law) if such fall under the following cases:

a) The competent state agencies defined by the investment legislation have approved the investment projects before November 16, 2004, for projects invested with the state budget capital or projects invested with foreign capital;

b) The dossiers of application for land assignment or land lease had been fully filed at the agencies functioning to receive the dossiers according to the regulations of the provincial/municipal People's Committees before November 16, 2004, for projects other than those invested with state budget capital or those invested with foreign capital;

c) The dossiers of application for land assignment or land lease of households or individuals; the dossiers of application for land use purpose change of organizations, households or individuals had been fully submitted at agencies functioning to receive dossiers according to the provincial/municipal People's Committees before November 16, 2004.

1.2. Persons who are assigned land, leased land or permitted to change land use purposes in the cases provided at Point 1.1 of this section must fulfill their financial obligations towards the State according to current regulations.

1.3. The dossiers on land assignment, land lease, land use purpose change for cases provided at Point 1.1 must be completely handled before June 30, 2005.

2. Regarding the recognition of land use rights upon the implementation of the provisions of Clause 3, Article 48 of Decree 181

For households and individuals using land which the State previously decided to manage in the

course of implementation of the State's land policies under the provisions of Points a and d, Clause 1, Article 4 of Decree 181, but actually the State has not yet issued such management decisions or not yet effected the management, they may continue using such land, be granted land use right certificates and must not pay land use levy.

3. Regarding land use duration

3.1. The land use duration for land use right auction winners shall be determined on the following bases:

a) The use purposes have been determined for land put up for auction;

b) The land use duration for each land use purpose provided for in Articles 66 and 67 of the Land Law.

3.2. For economic organizations, households and individuals using land for production and/or business ground, when being granted land use right certificates, the land use duration shall be determined as follows:

a) In cases where the valid papers on land use right are inscribed with the land use duration prescribed by land legislation, the land use duration shall be determined according to such papers;

b) In cases where the valid papers on land use right are not inscribed with land use duration or are inscribed with land use duration which, however, does not conform with the provisions of land legislation, the land use duration shall be determined according to the provisions of Article 67 of the Land Law and Article 78 of Decree 181; the land use duration shall be counted from October 15, 1993, for cases of using land before October 15, 1993 or from the date of issuance of decisions on land assignment or land lease, for cases of using land from October 15, 1993 onwards;

c) In case of having no papers on land use right, the land use duration shall be determined according to the provisions of Article 67 of the Land Law and Article 78 of Decree 181; the land use duration shall be counted from October 15, 1993, for cases of using land before October 15, 1993 or from the date of being granted land use right certificates, for cases of using land from October 15, 1993 onwards;

3.3. The land use duration determined in accordance with the provisions of Points 3.1 and 3.2 of this Section shall be inscribed in the land use right certificates granted to land users.

4. Regarding the determination of principal use purpose and other use purposes of land plots

4.1. The determination of principal use purposes and other combined use purposes for land plots defined in Clause 2, Article 6 of Decree 181 is specified as follows:

a) The principal use purposes shall be determined under the provisions of Article 14 of the Land Law; apart from principal use purposes, land users may use land for other combined purposes but without affecting the use of land for the principal purposes;

b) For land in the non-agricultural land group, the principal use purpose and other use purposes of a land plot must be for the same category of land assigned by the State without the collection of land use levies or the same category of land assigned by the State with the collection of land use levies, or leased by the State;

c) For investment projects on infrastructure construction and business, investment projects on dwelling house construction and business, projects on non-agricultural production and business,

composed of many construction items with different land use purposes, the land areas used for principal purposes and the land areas used for other purposes must be clearly inscribed in the documents approving the projects or documents appraising the land use demands of the projects.

4.2. The use duration of land plots with principal use purposes and other use purposes shall be the use duration of the land with the principal use purposes.

Where projects are for high-rise construction and business, of which a number of floors are used for construction of living apartments, a number of floors are used for service, trade establishments or for lease, the principal use purpose shall be the purpose of using the land as residential land and the use duration of the land plots shall be stable and long-termed.

II. GUIDANCE ON HANDLING OF LAND FOR EXECUTION OF INVESTMENT PROJECTS

1. On the execution of projects by mode of using land funds to create capital for construction of infrastructure

1.1. For projects having been underway and for which the land has been assigned to investors who are required to use the land stably for long terms as provided for at Point c, Clause 1, Article 5 of Decree No. 04/2000/ND-CP of February 11, 2000 of the Government on implementation of the Law amending and supplementing a number of articles of the Land Law, the investors shall continue to use such land stably for long terms.

1.2. For projects on the list of those entitled to use land funds for creation of capital for construction of local infrastructures, which had been approved by the Prime Minister before July

1, 2004, such shall be handled as follows:

a) Where provincial/municipal People's Committees had organized biddings or designated contractors before November 16, 2004 in order to select investors for execution of projects on infrastructure construction in the order prescribed in Article 23 of Decree No. 04/2000/ND-CP, such order shall continue to be complied with; the provincial/municipal People's Committees shall decide to assign land for construction of infrastructures and assign land to investors who have invested capital in the construction of infrastructures according to competence provided for in the Land Law;

b) Where provincial/municipal People's Committees have organized biddings or designated contractors in the period between November 16, 2004 and the effective date of this Circular but not by modes of land use right auction or biddings for projects involving land use with regard to land funds used for creation of capital for investment in infrastructure construction as provided for in Article 62 of Decree 181, the results thereof must be disregarded and the organization thereof shall comply with the provisions of Article 62 of Decree 181;

c) Where provincial/municipal People's Committees have not yet organized biddings nor designated contractors in order to select investors for execution of projects, the auction of land use rights and the bidding for projects involving land use with regard to the land funds used for creation of capital for investment in infrastructure construction shall be carried out in accordance with the provisions of Article 62 of Decree 181.

2. For cases where investors are transferred or leased the land use rights, receive land use rights as contributed capital for project

execution

2.1. Where the land use purpose of a project differs from the use purpose of the land plot while the land use for project execution accords with the approved planning, land use plan, the handling order shall be as follows:

a) For cases where investors hire the land use rights or receive as contributed capital the land use rights of current land users, the procedures for registering or permitting land use purpose change for current land users shall be carried out before the procedures for investors to hire the land use rights or to receive the land use rights as contributed capital;

b) For cases where investors are transferred the land use rights from current land users, the procedures for land use right transfer shall be carried out before the procedures for registering or permitting the land use purpose change for investors;

c) For cases where investors hire the land use rights or receive as contributed capital the agricultural land use rights of households, individuals, such households or individuals, before leasing their land use rights or contributing capital with their land use rights, must carry out procedures for land use purpose change and fulfill the financial obligations according to law provisions. The land use duration, after the change of land use purpose, shall correspond to the duration of the investment projects;

d) For cases where investors hire the land use rights or receive as contributed capital the rights to use non-agricultural land for definite terms of organizations, households or individuals, after the expiration of the land use right hiring duration or the land use right reception duration, the investors may continue to lease the land from the State for

the remaining duration of the investment projects.

2.2. Where the land areas used for execution of economic development projects and not recovered by the State (investors directly negotiate with current land users for the transfer or hiring of land user rights, for reception of capital contributed with the land use rights in order to have land for project execution as provided for in Clause 6, Article 36 of Decree 181) contain a land area not allowed to participate in the real estate market, the provincial/municipal People's Committees of the localities where exists the land shall recover land for lease or assignment to investors according to the following regulations:

a) The use of land for project execution must be in line with the approved land use plannings, plans; where it is necessary to change land use purposes, the permission of the competent state bodies is required or it must be registered according to the provisions of Clauses 1 and 2, Article 36 of the Land Law;

b) The provincial/municipal People's Committees shall recover land according to the provisions of Articles 39 and 40 of the Land Law; decide to lease land or assign land without organizing land use right auction among investors for the land areas not entitled to participate in the real estate market; the prices of assigned land or leased land shall be calculated according to the land prices set by the provincial/municipal People's Committees of the localities where exists the land;

c) The land assignment or lease duration shall correspond to the land use duration already determined in the investment projects;

d) Land use levies and land rents must be fully paid into the state budget.

2.3. Where the land areas used for project execution contain many land areas originating from

different sources: the transfer or lease of land use rights of current land users, reception of contributed capital, assignment by the State, lease by the State, the new land plots to be granted the land use right certificates shall be the entire land areas used for project execution, in which Point 8 of Section II (Land use sources) on the land use right certificates must be inscribed clearly with the land area for each land use source; where Point 8, Section II has not enough room for recording every land use source, additional pages shall be made according Form No. 01 issued together with this Circular (not printed herewith) and stamped with seal (seals of natural resources and environment agencies) overlapping page 4 of the land use right certificates.

3. Regarding the recovery of land for replenishment, development of urban centers and rural population quarters.

3.1. The State shall recover land used for replenishment, development of urban centers and rural population quarters in accordance with the provisions of Clause 1, Article 36 of Decree 181, including land areas for projects on construction of technical infrastructure, social infrastructure, administrative quarters, population quarters, production and service zones, public, defense or security works, religious establishments, cemeteries, graveyards in urban centers, rural population quarters, areas planned for urban centers, areas planned for rural population quarters.

3.2. The recovery of land used for the projects defined at Point 3.1 of this Section shall be carried out according to planned areas after the land use plannings, plans are publicized or according to investment projects having land use demands compatible with land use plannings or plans already approved, determined in detailed plannings for

urban construction or approved rural population quarter plannings.

3.3. The State shall assign or lease land for execution of projects defined at Point 3.1 of this Section by modes defined in Articles 61 and 62 of Decree 181.

4. On the transfer of the right to use land assigned for execution of projects in the domains of health, culture, education and training, physical training and sports

4.1. Organizations and individuals that are assigned land with the exemption of land use levies for execution of projects in the domains of health, culture, education and training, physical training and sports being in the period of investment in work construction, if being unable to continue executing the investment projects, shall have such land recovered by the State; assets invested on land shall be handled in accordance with the provisions of Article 35 of Decree 181.

4.2. Where the capital construction of projects has been completed, if investors are unable to continue executing the projects, they are entitled to sell assets associated to land; the asset purchasers may continue to execute the projects and must use the land for the purposes already approved.

5. On land use right mortgage or guarantee for cases of sublease of land in industrial parks, hi-tech parks, economic zones

5.1. Economic organizations that are leased land by the State for investment in construction and commercial operation of infrastructures in industrial parks and equivalent areas in economic zones or high-tech parks under the provisions of Point d, Clause 5, Article 41 of Decree 181 (referred

collectively to as industrial parks) and pay land rents annually are entitled to sublease the land where they have invested in the complete construction of infrastructure under the provisions of Point d, Clause 1, Article 111 of the Land Law; if the land sub-lessees have paid the rents for the whole land lease term, they may mortgage, or provide guarantee with, the rights to use the sub-leased land and their own assets associated to such land at credit institutions licensed to operate in Vietnam.

5.2. Where the rights to use sub-leased land and assets associated to land have been mortgaged or used as guarantee for debt recovery, the recipients of land use rights and assets associated to land may continue to use such land for the remaining duration under land sublease contracts.

III. SUPPLEMENTING PROVISIONS ON LAND USE RIGHT CERTIFICATES

1. On the correction and withdrawal of land use right certificates

1.1. The correction of contents inscribed in land use right certificates, prescribed in Clause 1, Article 42 of Decree 181 shall be conducted as follows:

a) The natural resource and environment agencies shall correct contents inscribed in land use right certificates according to the provisions of Land Law, for land use right certificates issued by the People's Committees of the same level.

b) Where land use right certificates had been issued before July 1, 2004, the correction of contents thereof is provided as follows:

b.1. The provincial/municipal Services of Natural Resources and Environment shall correct contents inscribed on land use right certificates granted to religious organizations or establishments, overseas

Vietnamese, that use land for construction of investment projects, foreign organizations or individuals;

b.2. The district-level Sections of Natural Resources and Environment shall correct contents inscribed on land use right certificates granted to households, individuals, overseas Vietnamese entitled to buy dwelling houses associated to residential land, population communities.

c) Where the correction of land plot diagrams has made such diagrams unclear, a land plot diagram page shall be added in accordance with the provisions of Section 2 of this Part.

d) Where the to be-corrected contents contain numerous technical errors, thus making the contents of land use right certificates unclear, after the correction, new land use right certificates shall be granted as replacement like for the cases defined at Point e, Clause 5, Article 41 of Decree 181.

e) The correction of contents inscribed on land use right certificates shall be made when there are applications or documents detecting errors in contents inscribed in the certificates, the written appraisals of land use right registries in localities where the land exists or records on inspection by inspection teams, made by natural resource and environment agencies competent to make corrections.

1.2. The withdrawal of land use right certificates under the provisions of Clause 2, Article 42 of Decree 181 shall be carried out as follows:

a) The natural resources and environment agencies shall withdraw land use right certificates according to the provisions of Land Law, for land use right certificates issued by the People's Committees of the same level.

b) For land use right certificates granted before

July 1, 2004, the competence to withdraw land use right certificates in cases of natural slide of the whole land plots, land recovery or change of certificates, grant new certificates for cases of change in boundaries of land plots, is stipulated as follows:

b.1. The provincial/municipal Services of Natural Resources and Environment shall withdraw land use right certificates granted to religious organizations or establishments, overseas Vietnamese using land for execution of investment projects, foreign organizations or individuals;

b.2. The district-level Sections of Natural Resources and Environment shall withdraw land use right certificates granted to households, individuals, overseas Vietnamese who are entitled to buy dwelling houses associated to residential land, population communities.

c) Upon withdrawal of land use right certificates, the provincial/municipal Services of Natural Resources and Environment or district-level Sections of Natural Resources and Environment must issue administrative decisions on the withdrawal of land use right certificates and simultaneously carry out procedures for change or grant of new land use right certificates, land recovery.

1.3. The withdrawal of land use right certificates under the provisions of Clause 3, Article 42 of Decree 181 shall be carried out by natural resource and environment agencies according to competence defined at Point 1.2 of this Section immediately after courts' judgments or rulings, decisions of judgment enforcement agencies take effect.

2. On additional page on land plot diagram attached to land use right certificates

In cases where the correction of land use right

certificates, the adjustment of changes in land use, the supplement or adjustment of changes in assets closely associated to land makes the land plot diagrams in Section V on the land use right certificates unclear, the diagrams of the land plots associated with assets (if any) shall be re-drawn in the additional page on land plot diagrams according to Form No. 02 issued together with this Circular (not printed herein). This additional page must be ordinarily numbered and affixed with stamps (of the natural resources and environment agencies) overlapping page 3 of the land use right certificates.

3. On the inscription on land use right certificates

The inscription of the names of land users on land use right certificates as provided for in Article 43 of Decree 181, for land under common use shall be carried out as follows:

3.1. Where households are assigned agricultural land by the State without the collection of land use levies, assigned land with the collection of land use levies while members of the households have been named in the land assignment decisions, Section I (name of land user) on the land use right certificates must be inscribed with "Household" and the full names of both the husband and the wife; in cases where the land users request to inscribe only the full name of either the husband or the wife, the written consent of either the wife or the husband with authentication of the commune/ward/township People's Committee is required.

3.2. Where the husband and the wife jointly receive the transferred land use rights (jointly named in contracts or documents on reception of land use rights), Section I on the land use right certificates must be inscribed with both the full names of the husband and the wife; where the land users request to inscribe only the full name of the

husband or the wife, there must be written consent of the wife or the husband with authentication of the commune/ward/township People's Committee.

3.3. Where the households receive the transferred land use rights which are the common assets of the entire households comprising all members fully inscribed in papers on reception of the transferred land use rights, Section I on the land use right certificates must be inscribed with the full names of the household masters or with the full names of both the husband and the wife, either of whom is the household master, or inscribed with the full name of the household's representative; the full names of the persons inscribed on the land use right certificates must be consented in writing by members of the households, with authentication of the commune/ward/township People's Committees.

3.4. Where many land users have the rights to commonly use a land plot and the full names of all such land users must be inscribed while Section I on the land use right certificate has not enough room for the inscription thereof, in Section I, only the full name of the person granted the land use right certificate shall be inscribed, then added with the phrase "together with the land users named in the list enclosed with this certificate"; the list of common users of the land plot must be printed or inscribed on the additional page according Form No. 03, issued together with this Circular (not printed herein). The additional pages, after being made, shall be affixed with stamps (of natural resources and environment agencies) overlapping page 4 of the land use right certificate.

3.5. Where heirs of the same rank are entitled to inherit the land use rights according to law, the inscription of the names of land users on land use right certificates is stipulated as follows:

a) When all persons entitled to the inheritance at law are fully identified, the inscription of land users' names on land use right certificates shall comply with the provisions of Point 3.4 of this Section;

b) When the persons entitled to the inheritance at law are not fully identified, only one (1) land use right certificate shall be granted to the representative, Section I on the land use right certificate shall be inscribed with "The representative is," which is followed by the full name of the representative; the list of other persons of the same inheritance rank entitled to common use of the land plot according to provisions of Point 3.4 of this Section shall be made. Section IV (Note) shall be inscribed with: "Not yet entitled to exercise the rights of land users."

4. On the granting of land use right certificates with regard to agricultural land comprising many adjacent land plots under the use right of the same land user

4.1. Where many adjacent agricultural land plots belong to the same land user who wishes to have land use right certificate, he/she shall be granted one (1) land use right certificate for all those land plots without having to carry out the procedures to merge them into one plot.

4.2. The land plot diagrams in Section V on the land use right certificates must express all adjacent land plots.

4.3. Section II (Land plots to be eligibly used) on the land use right certificates shall be inscribed according to the following regulations:

a) Not to be inscribed with the contents at Point 1 (Land plot No.) and Point 2 (Map No.);

b) To be inscribed at Point 3 (Land plot location) with the location of the area covering adjacent land

plots;

c) To be inscribed at Point 4 (Acreage) with the total land use acreage of all adjacent land plots;

d) To be inscribed at Point 5 (Land use form) with the total land use acreage for all adjacent land plots;

e) To be inscribed at Point 6 (Land use purpose) with "agricultural land";

f) Not to be inscribed with contents at Point 7 (Land use duration) and Point 8 (Land use sources).

4.4. To statistically list all land plots to be eligibly used into the additional page according to Form No. 04 issued together with this Circular (not printed herein). The additional pages, after being made, shall be affixed with stamps (of the natural resource and environment agencies) overlapping page 4 of the land use right certificates.

5. On the recognition of assets associated to land on land use right certificates

5.1. The recognition of assets associated to land upon the first-time granting of land use right certificates shall be carried out as follows:

a) Not to make measurements and/or drawings, to inscribe contents into Section III (Assets associated to land) on land use right certificates and into Section III (Changes in the process of using land and notes) on pages of cadastral books in the following cases:

a.1. Agricultural land is cultivated with annual crops;

a.2. Land where assets have not yet been formed at the time of granting the land use right certificates;

a.3. Land use right certificate grantees do not have the demand for recognition of assets

associated to land;

b) For cases not prescribed in Item a of this Point, the assets associated to land shall be measured, drawn and expressed on the cadastral maps; the contents shall be inscribed in Section III of the land use right certificates and Section III on cadastral map pages as follows:

b.1. For residential houses (other than condominiums) or houses in other forms, to inscribe "residential houses (or workshops, storehouses,...),... floors (to inscribe the number of floors), construction space... m² (to inscribe the land-occupying acreage), house type... (to inscribe types of material used for building force-bearing frames, types of material used for walling, types of material used for building floors for multi-storey buildings, types of material for roofing)";

b.2. For condominiums, to inscribe (on land use right certificates granted to investors or condominium owners and the contents correspond to those on cadastral book pages) "Condominium... floors (to inscribe the number of floors), the construction spaces... m² (to inscribe the land-occupying acreage), the total number of apartments... (to inscribe the total number of apartments), house type... (to inscribe the types of material used for making force-bearing frames, types of material used for walling, types of material for building floors for multi-storey buildings; type of material for roofing; in cases of modeled houses, to inscribe generally the house type such as pre-fabricated concrete houses, not necessarily to detail type of wall, type of floor, type of roof)";

b.3. For condominium apartments owned by households or individuals, to inscribe (on land use right certificates granted to condominium apartment owners and corresponding contents on cadastral book page) "Condominium apartment No... (to

inscribe the serial number of the apartment), floor No... (to inscribe the location of the floor where stays the apartment), acreage... m² (to inscribe use acreage of the apartment)";

b.4. For infrastructural works, other architectural works, to inscribe "Work... (to inscribe type of works such as industrial park infrastructure, traffic, irrigation, entertainment works, other constructions), including work items:..., acreage... m²;..., acreage... m²;... (to inscribe specific work items and their respective land-occupying acreages)";

b.5. For forest trees or perennial trees, to inscribe "Forest trees (or perennial trees)... (to inscribe types of forest trees or perennial trees), acreage... m² (to inscribe forest acreage or perennial tree garden acreage)".

c) Where owners of assets associated to land have been certified according to law provisions, the contents already inscribed in accordance with the provisions of Item b of this Point shall be followed by the inscription "under the ownership of... (to inscribe owner's name) in Section III on the land use right certificates and Section III on cadastral book page.

d) The diagram of assets associated with land shall be drawn on the land plot diagram in Section V on the land use right certificates shall cover house boundaries, construction works, architectural objects, forest trees, perennial trees, entertainment areas, waste treatment area and other construction works; where boundaries are straight lines, the length of sides shall be measured in meters rounded to one decimal along such straight lines.

e) The regulations on contents recognizing the assets associated to land in Item b of this Point shall replace the regulations in Clause 4, Article 3 of the Regulation on Land Use Right Certificates, issued together with Decision No. 24/2004/QĐ-BTNMT of

November 1, 2004 of the Minister of Natural Resources and Environment, and the guidance on inscription of assets associated to land from line 1 to line 6 of page 4 of the cadastral book form issued together with Circular No. 29/2004/TT-BTNMT of November 1, 2004 of the Ministry of Natural Resources and Environment, guiding the making, adjustment and management the cadastral dossiers.

The regulations on drawing diagrams of assets associated with land at Item d of this Point shall replace the regulations at Point c, Clause 6, Article 3 of the Regulations on Land Use Right Certificates issued together with Decision No. 24/2004/QĐ-BTNMT of November 1, 2004 of the Minister of Natural Resources and Environment.

5.2. The additional recognition of assets associated to land on the granted land use right certificates and on cadastral books shall be carried out according to the following regulations:

a) The additional recognition of assets associated to land shall be effected when assets associated to land have not yet been recognized when the land use right certificates are granted or for assets associated to land, which are created after the granting of land use right certificates;

b) The additional assets associated to land shall be recognized in Section VI (Changes after the granting of land use right certificates) on the land use right certificates and in Section III (Changes in the process of land use and notes) on the cadastral book pages as follows:

b.1- Column: Day, month, year: to inscribe the time of additionally recognizing the assets associated to land into land use right certificates;

b.2- Column: Contents of change and legal grounds therefor: to inscribe the contents of information on assets associated to land according to the provisions of Item b, Point 5.1 of this Section;

b.3- Column: Certification by competent bodies: Heads of natural resource and environment agencies sign and stamp for certification according to competence;

c) To add diagrams on assets associated to land to the land plot diagrams already drawn at Section V (Land plot diagram) on the land use right certificates.

5.3. The adjustment of changes in assets associated to land on land use right certificates and cadastral books shall be carried out according to the following regulations:

a) In case of changes in types of asset associated to land or changes in scales of assets associated to land already recognized on the land use right certificates, the adjustment of changes in assets associated to land must be made on the land use right certificates;

b) To underline in red ink the information on assets associated to land, already recognized in Section III on cadastral book pages;

c) The adjustment of changes in assets associated to land on land use right certificates and cadastral books shall comply with the provisions of Items b and c, Point 5.2 of this Section.

Where the adjustment of changes in assets on land makes the land plot diagrams unclear, the land plot diagram page shall be added according to the provisions of Section 2 of this Part.

6. On the adjustment of changes on certificates of house ownership and residential land use rights, already granted in accordance with the provisions of Decree No. 60/CP of July 5, 1994 of the Government

6.1. In case of changes in land use not prescribed at Point 6.2 of this Section or changes in assets associated to land, such changes shall

be recognized on certificates of residential house ownership and residential land rights or on additional pages of land use right certificates according to the Regulation on Land Use Right Certificates, issued therewith.

6.2. In case of changes in land use which require the granting of new land use right certificates according to the provisions of Clause 4, Article 48 of the Land Law and Clause 5, Article 41 of Decree 181 or the land users wish to change their land use right certificates, the state bodies competent to grant certificates shall grant new land use right certificates according to the form provided for in Decision No. 24/2004/QĐ-BTNMT of November 1, 2004 of the Minister of Natural Resources and Environment; the information and diagrams on dwelling houses associated to residential land already inscribed in the certificates of residential house ownership and residential land use rights shall be re-inscribed on the new certificates, including the full names of dwelling house owners, the serial numbers of granted certificates, date of issuance and issuing agencies.

7. On the granting of land use right certificates in cases where religious establishments are using agricultural land

7.1. The land areas cover both agricultural land and non-agricultural land, which the religious establishments are using and granted the land use right certificates after the handling under the provisions of Clause 2, Article 55 of Decree 181 and full satisfaction of the conditions prescribed in Clause 4, Article 51 of the Land Law.

7.2. The use duration applicable to agricultural land being used by religious organizations shall be the same as the duration for agricultural land being used by households, individuals, prescribed in

Clause 1, Article 67 of the Land Law.

8. On the granting of land use right certificates to enterprises upon the conversion of their legal person status

8.1. Where households or individuals set up private enterprises and transfer their land use rights to the private enterprises, the latter may continue to use the land; if the private enterprises file their applications, the provincial/municipal Services of Natural Resources and Environment shall have to adjust changes in the names of land users on the granted land use right certificates of the households or individuals.

8.2. Where cooperatives dissolve to set up private enterprises, limited liability companies or joint-stock companies, they must carry out the procedures for land recovery by the State with regard to land assigned by the State to the cooperatives without the collection of land use levies and the procedures for land assignment or land lease to new legal persons set up under provisions of land legislation; land of other categories shall be handled according to the provisions of Article 109 of Decree 181.

8.3. Where private enterprises dissolve to set up limited liability companies or joint-stock companies, the land use right transfer shall be carried out in accordance with provisions of land legislation; the provincial/municipal Services of Natural Resources and Environment shall adjust the changes in the names of land users on the granted land use right certificates or grant new land use right certificates upon the changes in land plots.

IV. ADDITIONAL GUIDANCE ON A NUMBER OF ADMINISTRATIVE ORDERS AND PROCEDURES

1. On the order and procedures for appraisal of land use demands

The order and procedures for appraisal of land use demands, prescribed at Point b, Clause 1, Article 30 of Decree 181 shall be carried out as follows:

1.1. Investors in projects not financed with the state budget capital or foreign capital shall file at the provincial/municipal Services of Natural Resources and Environment seven (7) sets of appraisal dossiers, each comprising:

- a) The project document enclosed with the entire annexes of the project;
- b) The decision approving the investor's project.

1.2. The appraisal of land use demands shall be carried out as follows:

a) Within three (3) working days counting from the date of fully receiving the valid dossiers, the provincial/municipal Services of Natural Resources and Environment shall have to send the appraisal dossiers to relevant agencies for comments.

b) Within ten (10) working days counting from the date of fully receiving the dossiers, the relevant agencies shall have to send their written comments on land use demands to the provincial/municipal Services of Natural Resources and Environment.

c) Within ten (10) working days counting from the date of expiry of the time limit for gathering comments, the provincial/municipal Services of Natural Resources and Environment shall have to sum up the comments, scrutinize the specific land use demands against the land use norms, for the land category requiring land use norms; formulate documents appraising the land use demands and send them to project investors.

2. On the order and procedures for certifying the observance of land legislation

The order and procedures for certifying the observance of land legislation for projects already assigned or leased land according to the provisions of Clause 2, Article 30 of Decree 181 shall be as follows:

2.1. The applicants for land assignment or land lease shall make written declarations on all land areas, the situation of using the land assigned or leased previously by the State and make self-remarks on the observance of land legislation in the course of execution of each project according to Form No. 05 issued together with this Circular (not printed herein); and send their written declarations to the provincial/municipal Services of Natural Resources and Environment of the localities where exists the land they apply for assignment or lease.

2.2. Within three (3) working days counting from the date of receiving the written declarations, the provincial/municipal Services of Natural Resources and Environment shall have to send request cards to the provincial/municipal Services of Natural Resources and Environment of the localities where exists the assigned or leased land for comments; the request cards are made according to Form No. 06 issued together with this Circular (not printed herein).

2.3. Within ten (10) working days counting from the date of receiving the request cards, the provincial/municipal Services of Natural Resources and Environment requested to give certifications shall have to make written comments according to Form No. 07 issued together with this Circular and send them to the provincial/municipal Services of Natural Resources and Environment which have

sent the request cards.

2.4. Within three (3) working days counting from the date of receiving the written comments, the provincial/municipal Services of Natural Resources and Environment of the localities where exists the land applied for assignment or lease shall have to sum up and make evaluation papers according to Form No. 08 issued together with this Circular (not printed herein) and include them in the dossiers of consideration for land assignment or lease.

3. On the order and procedures of registration for lease or sublease of the right to use land associated with infrastructures in industrial parks, hi-tech parks, economic zones.

3.1. The land use right lease, sublease provided at Point d, Clause 5, Article 41 of Decree 181 shall be based on contracts for lease of right to use land associated to infrastructures between economic organizations using the land and enterprises investing in the construction and commercial operation of infrastructures, with certification by the Management Boards of industrial parks, economic zones, hi-tech parks; the lessees or sub-lessees of land associated with infrastructures shall be granted the land use right certificates.

3.2. The order and procedures of registration for lease or sublease of the rights to use land associated with industrial-park infrastructures shall comply with the provisions of Article 149 of Decree 181, in which the Management Boards of industrial parks, economic zones or hi-tech parks shall have to certify the contracts instead of authenticating the contracts by the Notary Public, the provincial/municipal Services of Natural Resources and Environment of the localities where exists the land shall have to adjust the land use right certificates already granted to enterprises investing in the

construction and commercial operation of infrastructures and grant the land use right certificates to lessees or sub-lessees of land in industrial parks according to the following regulations:

a) The dossiers of registration for lease or sublease of the rights to use land associated with infrastructures shall be filed at the land use right registration offices of the provincial/municipal Services of Natural Resources and Environment; each dossier comprises:

a.1- The contract on lease or sublease of the right to use land associated with infrastructures, certified by the Management Board of the industrial park, economic zone or hi-tech park (contract is made by the parties according to a form set by the Ministry of Justice and the Ministry of Natural Resources and Environment);

a.2- The land use right certificate.

b) The registration shall be carried out as follows:

b.1- Within two (2) working days counting from the date of fully receiving the valid dossiers, the land use right registration offices shall have to verify the dossiers, make extracts of cadastral dossiers and send them to the provincial/municipal Services of Natural Resources and Environment;

b.2- Within two (2) working days counting from the date of receiving the registration dossiers enclosed with extracts of cadastral dossiers, the provincial/municipal Services of Natural Resources and Environment shall have to adjust the land use right certificates already granted to enterprises which have invested in the construction and commercial operation of infrastructures, grant the land use right certificates to the lessees or sub-lessees of the right to use land associated with infrastructures and send the results thereof to the

land use right registration offices;

b.3- Within three (3) working days counting from the date of receiving the results of settlement by the provincial/municipal Services of Natural Resources and Environment, the land use right registration offices shall have to hand over the adjusted land use right certificates and the new land use right certificates to land users; adjust the original cadastral dossiers; send the extracts of adjustment contents, update the original cadastral dossiers for the land use right registration offices of the district-level Sections of Natural Resources and Environment, the People's Committees of the communes, wards or townships where exists the land for adjusting the copies of the cadastral dossiers.

4. On the time limits for settling land disputes in cases where the disputing parties do not have papers on land use rights

The settlement of the contents prescribed in Articles 159 and 160 of Decree 181 on settling land disputes in cases of absence of papers on land use rights shall be carried out within the following time limits:

4.1. The time limit for reconciliation at the commune/ward/township People's Committees shall be thirty (30) working days counting from the date the People's Committees receive applications of the disputing parties.

4.2. The time limit for the first-time settlement shall not exceed thirty (30) working days counting from the date of receiving the applications of the disputing parties.

4.3 Within fifteen (15) working days counting from the date of receiving the decisions on the first-time settlement, if disagreeing therewith, the disputing parties may send their applications to the

competent bodies for the final settlement of disputes; past the above time limit, the application for settlement of disputes shall not be accepted.

4.4. The time limit for the final settlement of disputes shall not exceed forty five (45) days counting from the date of receiving the applications of the disputing parties.

5. On forms of contracts upon the exercise of land users' rights

Forms of contracts upon the exercise of land users' rights are provided for in a joint circular of the Ministry of Justice and the Ministry of Natural Resources and Environment. Pending the promulgation of such joint circular, the contracts upon the exercise of land users' rights shall be made according to a form prescribed in Circular No. 1883/2001/TT-TCDC of November 12, 2001 of the General Land Administration; the provincial/municipal Services of Natural Resources and Environment, the People's Committees of rural districts, urban districts, provincial capitals or towns, the district-level Sections of Natural Resources and Environment, the People's Committees of communes, wards, townships shall not certify the conditions for exercise of such rights on such contracts.

This Circular takes effect 15 days after its publication in the Official Gazette.

The provincial/municipal People's Committees shall direct the implementation of this Circular. If any problems on law provisions arise in the course of implementation, they should be reported in time to the Ministry of Natural Resources and Environment for further handling.

**Minister of Natural Resources and
Environment
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